

HOUSE BILL REPORT

HB 1548

As Reported by House Committee On:
Judiciary

Title: An act relating to special immunities.

Brief Description: Providing immunity from civil actions for a health professional making a good faith claim of unprofessional conduct or inability to practice safely against another health professional.

Sponsors: Representatives Clibborn, Bailey, Hinkle, Moeller, Buri, Morrell, Skinner, Lantz, Williams, Darneille, Murray, O'Brien, Rodne and Campbell.

Brief History:

Committee Activity:

Judiciary: 2/14/05, 2/28/05 [DP].

Brief Summary of Bill

- Provides immunity from a civil action to a health care provider who reports another provider's unprofessional conduct or lack of capacity to practice safely.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

Staff: Edie Adams (786-7180).

Background:

The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. In addition, the UDA provides authority for a disciplining authority to investigate a provider when the authority believes the provider may be unable to practice with reasonable skill and safety because of a mental or physical condition. The authority to discipline health care providers under the UDA is given to the Secretary of Health and the 16 health professions boards and commissions according to the provider's health care profession and the relevant step in the disciplinary process.

The UDA gives immunity to any person who, in good faith, either submits a written complaint to a disciplining authority charging a health care professional with unprofessional conduct or reports information to a disciplining authority indicating that a provider may not be able to practice his or her profession with reasonable skill and safety because of a mental or physical condition.

Another provision of law provides immunity specifically to physicians, dentists, and pharmacists who in good faith file charges or present evidence of incompetency or gross misconduct against another member of their profession before the Medical Quality Assurance Commission, the Dental Quality Assurance Commission, or the Board of Pharmacy.

Summary of Bill:

The immunity granted to physicians, dentists, and pharmacists who in good faith file charges or present evidence to a disciplining authority about incompetence or misconduct of another physician, dentist, or pharmacist is expanded to:

- apply to any health care professional subject to the Uniform Disciplinary Act (not just physicians, dentists, and pharmacists);
- include making a report (in addition to filing charges or presenting evidence);
- apply when the report or evidence is given against any health care professional (as opposed to a member of the reporter's same profession); and
- apply to reports or evidence relating to unprofessional conduct or the inability to practice with reasonable skill and safety because of a physical or mental condition (as opposed to incompetence or gross misconduct).

A health care professional who prevails in a civil action on the good faith defense provided in this immunity statute is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: There is great merit to this proposal to protect the reporting of unprofessional conduct. If you report a bad doctor now, you are out there bare because insurance doesn't cover this.

(With concerns) There should be a requirement that a reporter of unprofessional conduct go through channels first before it goes to the discipline stage so it isn't used as a weapon. An institution should operate as a team.

Testimony Against: None.

Persons Testifying: (In support) Mark Johnson, Washington State Bar Association; Daniel Bruzak, Washington Osteopathic Medical Association; Larry Shannon, Washington State Trial Lawyers' Association; and Cliff Webster, Washington State Medical Association.

(With concerns) Kerry Watrin, family practitioner.

Persons Signed In To Testify But Not Testifying: None.